

June 12, 2018

Mr. Devin Leary
Human and Rohde, Inc.
512 Virginia Avenue
Towson, MD 21286

Re: Candle Light Funeral Home
Forest Conservation Variance
Tracking # 01-18-2706

Dear Mr. Leary:

A request for a variance from the Baltimore County Code Article 33, Title 6 Forest Conservation was received by this Department of Environmental Protection and Sustainability (EPS) on April 16, 2018. This request would grant approval for the removal of two specimen trees which are potentially hazardous to employees and customers of the Candle Light Funeral Home. The two specimen trees proposed for removal are in poor condition and located next to heavy use areas. Additional exposure to the hazard trees will result from a planned expansion of the Candle Light Funeral Home.

The Director of EPS may grant a special variance to the Forest Conservation Law in accordance with criteria outlined in Section 33-6-116(d)(1) of the Code. There are six (6) criteria listed in Subsection 33-6-116(d) and (e) that shall be used to evaluate the variance request. One (1) of the criteria under Subsection 33-6-116(d) must be met, and all three (3) of the criteria under Subsection 33-6-116(e) must be met, in order to approve the variance.

The first criterion (Subsection 33-6-116(d)(1) of the Code) requires the petitioner show the land in question cannot yield a reasonable return if the requirement from which the special variance is requested is imposed and will deprive the petitioner of all beneficial use of this property. There is an existing funeral home on the property with parking facilities that has operated for many years. The two specimen trees identified for removal have not prevented the funeral home from operating their business. The desire to remove the specimen trees is based on the funeral home's concern for the safety of their employees and customers and the State Highway Administration's concern for the safety of drivers along Frederick Road. Since the funeral home can operate with or without the removal of the specimen trees, denying this variance request would not deprive the petitioner of all beneficial use of the property. Consequently, we find that this criterion has been not been met.

The second criterion (Subsection 33-6-116 (d)(2) of the Code) requires that the petitioner show that his/her plight is due to unique circumstances and not the general conditions of the neighborhood. The need to remove the specimen trees is a result of their poor condition and

close proximity to heavy use areas. These circumstances are unique to this property and not the general conditions in the neighborhood. Therefore, we find the second criterion has been met.

The third criterion (Subsection 33-6-116(d)(3) of the Code) requires that the petitioner show that the special variance requested will not alter the essential character of the neighborhood. There are ten specimen trees on the property. The property owner is requesting to remove only two of the ten specimen trees. The proposed specimen tree removal will not alter the essential character of the neighborhood. Therefore, we find this criterion has been met.

The fourth criterion (Subsection 33-6-116(e)(1) of the Code) requires that the granting of the special variance will not adversely affect water quality. The trees proposed for removal are located in heavy use areas and are more than 200 feet from the stream on the property. The property owner will record Forest Buffer and Forest Conservation easements to protect the majority of the forest adjacent to the stream. In addition, erosion control measures and storm water management facilities will be used during and after construction to minimize impacts to the stream and wetland on the property. Therefore, we find that granting the variance will not adversely affect water quality and that this criterion has been met.

The fifth criterion (Subsection 33-6-116(e)(2) of the Code) requires that the special variance request does not arise from a condition or circumstance that is the result of actions taken by the petitioner. The variance request arises from the poor condition of the two specimen trees and their proximity to areas heavily used by employees and customers of the Candle Light Funeral Home. The State Highway Administration identified the specimen tree at the entrance of the funeral home and adjacent to Frederick Road as a hazard tree. The other specimen tree is dropping large limbs near an area used by employees. Since the proposed removal of the two specimen trees is not a result of actions taken by the petitioner, this criterion has been met.

The sixth criterion (Subsection 33-6-116(e)(3) of the Code) requires that the Director of EPS find that the special variance, as granted, would be consistent with the spirit and intent of Article 33 of the Baltimore County Code. The two specimen trees identified for removal are located outside of the forest and are more than 200 feet from the stream on the property. The eight other specimen trees will remain on the property. The majority of the forest on the property will be protected in Forest Buffer and Forest Conservation easements to be recorded in the Land Records of Baltimore County. Given that the majority of the specimen trees will remain on the property and the majority of the forest onsite will be protected in conservation easements, we find that this variance request is consistent with the spirit and intent of Article 33 of the Baltimore County Code. Therefore, this criterion has been met.

Based on our review, this Department finds that all of the required criteria have been met. Therefore, the requested variance is hereby approved, in accordance with Section 33-6-116 of the Baltimore County Code, with the following conditions:

1. No mitigation is required for the removal of the two specimen trees because they are in poor condition.

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2. The final forest conservation plan must reflect the conditions of this variance and show the critical root zone (CRZ) of all specimen trees on or near the property (i.e. with CRZ on the property).
3. All plans prepared for 1835 Frederick Road must include the following note:

“A special variance to the Forest Conservation Law was granted by Baltimore County Dept. of Environmental Protection & Sustainability on June 12, 2018 to allow the removal of two specimen trees. No mitigation is required for the removal of these specimen trees since they are in poor condition. “

It is the intent of this Department to approve this variance subject to the above conditions. Any changes to site layout may require submittal of revised plans and a new variance request.

Please have the party responsible for meeting the conditions of this variance sign the statement on the following page and return a signed copy of this letter to this Department within 21 calendar days. Failure to return a signed copy may render this approval null and void, or may result in delays in the processing of plans for this project.

If there are any questions regarding this correspondence, please contact Mr. Gris Batchelder at (410) 887-3980.

Sincerely,

David V. Lykens
Deputy Director

DVL/cgb

cc : Mr. Craig Witzke
Marian Honeczy, Maryland Department of Natural Resources

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I/we agree to the above conditions to bring my/our property into compliance with Baltimore County's Forest Conservation Law.

Responsible Party's Signature

Date

Responsible Party's Printed Name